



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Ruben Torres

SUBJECT: SEE BELOW

DATE: November 26, 2013

Approved

Date

12/4/13

**SUBJECT: AGREEMENT WITH THE COUNTY OF SANTA CLARA
FOR PAYMENT OF FIRST RESPONDER FEES**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the County of Santa Clara to accept payment in an amount not to exceed \$749,000 for first responder fees owed to the City for the period April 2013 through July 2013.

OUTCOME

This Memorandum of Understanding (MOU) will provide payment to the City of first responder fees for the months of April, May, June, and July 2013. Fees for these months have not been paid by Rural/Metro and are currently due. The maximum amount due to the City for the period of April –July 2013 is \$863,276. However, this amount will be reduced by \$114,276 for liquidated damages assessed for April to June 2013, and an additional amount still to be determined by the County for the month of July 2013. The actual payment from the County will be \$749,000, less such sum as the County may assess for liquidated damages for the month of July 2013.

BACKGROUND

The County of Santa Clara entered into the EMS Agreement with Rural/Metro for the provision of advanced life support emergency ambulance services. The County has also entered into an agreement with the City regarding advanced life support (paramedic) services under which the City is to receive payments from Rural/Metro for paramedic services provided by the City. On August 4, 2013, Rural/Metro and its corporate parent, Rural/Metro Corporation, among other related entities, filed for Chapter 11 bankruptcy protection. As a result of this action, Rural/Metro is not currently making payments on its prepetition debt obligations, including First Responder Fees under the EMS Agreement.

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ANALYSIS

The County has agreed to pay outstanding first responder fees for the period April 2013 through July 2013 from County EMS Trust Fund monies^a. This payment covers the pre-bankruptcy petition period during which Rural Metro did not submit First Responder Fees.

In order to receive payment from the County, the City must assign to the County any and all right, title, and interest, including all rights, claims and interests arising in or related to the Chapter 11 Cases, in the First Responder Fees owed to First Responder by Rural/Metro (pursuant to Section 3.5 of the EMS Agreement) for the period of April 2013 through July 2013.

EVALUATION AND FOLLOW-UP

A supplemental memo will be provided as soon as the liquidated damages amount for July 2013 is known. The Administration will monitor 2013-2014 payments and bring forward any adjustments that may be necessary.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this memorandum does not meet any of the above criteria, it will be posted on the City's website as part of the December 17, 2013 City Council agenda.

COORDINATION

This memorandum was coordinated with the Budget Office and the City Attorney's Office.

^a EMS Trust Fund is funded by revenues from liquidated damages (fines) from the contracted 911 paramedic ambulance provider (Rural/Metro) for failing to meet contract stipulations. The EMS Trust Fund provides funding for projects with a countywide benefit to the EMS System providers. Funds are collected in one year and are expended the following year. Expenditure of the money from the EMS Trust Fund for first responders' fees will decrease the amount that would otherwise be available in the future to San Jose and other first responder agencies for supplemental projects.

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COST SUMMARY/IMPLICATIONS

This agreement is for the fourth quarter of the 2012-2013 fiscal year (\$643,386 less liquidated damages of \$114,450 for a total of \$528,936) and one month of the 2013-2014 fiscal year (\$219,890 less any liquidated damages). County EMS Trust Fund monies will be used to make the payment of first responder fees for the period April to July 2013.

As discussed in the 2012-2013 Annual Report, payments for only three of the four quarters (\$1.6 million) were recognized in 2012-2013. With this Agreement, an estimated \$528,936 for the fourth quarter of 2012-2013 will be received in 2013-2014. This payment has not been factored into the 2013-2014 revenue estimate. The 2013-2014 Adopted Budget assumes the collection of \$2.2 million for the City's Paramedic Program in 2013-2014, with only one month of this period being covered by this agreement with the County. For the remaining 11 months of the fiscal year, it is currently assumed that the City will receive its payment from Rural/Metro. However, because there is uncertainty regarding the payment for 2013-2014, budget actions are not recommended at this time to recognize the additional revenue associated with the fourth quarter of 2012-2013. Any necessary budget adjustments will be brought forward in 2013-2014 based on actual collections.

CEQA

Not a Project, File No. PP10-066(g), Memorandum of Understanding.

/s/

RUBEN TORRES
Interim Fire Chief

For questions, please contact Juan Diaz, Deputy Fire Chief, at 408-794-7001.